I.   **Claim Rejections**

Each of the independent claims require that the programmable medical device comprise a routine that is responsive to a status of the programmable medical device **without user input** for selectively displaying only those entry keys required by the status. As previously discussed, the disclosure of <u>Wallace</u> does not disclose or render obvious these limitations. In the present Office Action, the Examiner has acknowledged that "<u>Wallace</u> does not teach that the buttons are selectively displayed WITHOUT USER INPUT." The Examiner has taken the position, however, that <u>Zingher</u> teaches a control system that selectively displays buttons in response to the status of the device, without user input, and for all functions of the device. This is not a correct reading of the disclosure of <u>Zingher</u>.

As opposed to the Examiner's assertion, <u>Zingher</u> merely discloses a "terminal for a printing machine having a single central display for indicating all machine functions and *accepting operator input* of all the control information." (Col. 2, lines 15-19.) The terminal, however, is completely driven by user interaction, as opposed to the responsive routine required by Applicants' claims. The requirement of operator control is explained in <u>Zingher</u>:

> Once *the operator has designated a particular machine status area*, the
> interactive input-output area 23 of the display 20 is activated to present to the
> operator an indication of the machine conditions *corresponding to the designated*
> *machine status area* [selected by the operator] and to provide for the entry or
> modification of set points to adjust or control the machine functions fo the
> designated machine status area.
> (Col. 6, lines 57-64.)

Accordingly, like <u>Wallace</u>, <u>Zingher</u> also does not disclose or render obvious the claim limitations.

The portion of the claims of <u>Zingher</u> that the Examiner pointed to as disclosing non-user

input action is simply an inaccurate reading of the claims. In claim 26 (col. 18, lines 50-62),

<u>Zingher</u> recites:

> means for presenting a machine diagram on the video display, said
>
> machine diagram providing a pictorial representation of the printing machine, the
>
> video display having means for selectively generating visually perceptible
>
> symbols aligned with certain respective machine status areas on the machine
>
> diagram, said machine status areas pictorially representing specific respective
>
> components of the printing machine, the pressure-sensitive sensor having
>
> pressure-sensitive points aligned with the machine status areas, and wherein
>
> distinct machine status areas are provided for each of said inking, register, and
>
> sheet travel machine functions; (Col, 18, lines 50-62.)

The above limitation merely discloses a touch screen (such as in Figure 4 of <u>Zingher</u>) that

has flowchart type block figures (i.e., "visually perceptible symbols aligned with certain

respective machine status areas on the machine diagram, said machine status areas pictorially

representing specific respective components of the printing machine") displayed in different

colors to differentiate the different areas of the printing machine. However, the "visually

perceptible symbols aligned with certain respective machine status areas on the machine

diagram" are displayed solely upon *operator interaction* with the touch screen, and not by a

responsive routine as required in Applicants' claims. This is made clear in the disclosure in

<u>Zingher</u>:

> As shown in FIG. 4, for example, if *the operator applies pressure* to the
>
> switch matrix above the symbol 24, the display 20 responds by illuminating the
>
> unit No. 1 annotation 26 and also by displaying the "INK DENSITY-CHANGE

ZONAL OFFSETS UNIT NO. 1" prompt statement 21 at the top of the display.

Preferably the graphic symbol 24 is also modified, for example by changing the

color of the bordering area 27 *to indicate which particular machine status area*

was selected by the operator. (Col. 6, lines 2-11.) (Emphasis added.)

Accordingly, based on an operator request, Zingher may provide a colored flowchart of

the entire printing press, or some detailed sub-components of the printing press as a static display

screen similar to that depicted in Figure 4 of Zingher. The screen in Figure 4, however, merely

displays the machine status and visually perceptible symbols (colored blocks according to the

legend shown in Figure 5) as requested by the printing press operator when the operator touches

the pressure sensitive screen. The pressure sensitive screen of Figure 4 (or that disclosure cited

by the Examiner in claim 26 of Zingher) **is not** "a display of a plurality of entry keys disposed in

a spatial configuration," and **is not** a display of "only those entry keys which are required by the

status for inputting commands to the programmable medical device" as recited in Applicants'

independent claims. Furthermore, as disclosed by Zingher at col. 6, lines 2-11, shown above, the

graphic symbols displayed on the display of Zingher are shown only following **operator**

intervention, not by a routine responsive to the status of the device. Thus, the disclosure of

Zingher has the same deficiencies that the Examiner has acknowledged in Wallace. As such

Wallace in combination with Zingher does not disclose or render obvious the limitations of

Applicants' claims.

Moreover, Applicants also state that Wallace and Zingher do not disclose a routine which

is responsive to a status of the medical device without user input **during each phase of control**

or programming. This feature of Applicants' invention is extremely useful for simplified

programming, especially where the programming of a medical device takes place over several

screen iterations and at distinct intervals. Contrary to the Examiner's assertions, there is no

disclosure in <u>Wallace</u> or <u>Zingher</u> to indicate such a responsive routine occurring during all phases of programming.

Finally, even though Applicants have shown that neither <u>Wallace</u> nor <u>Zingher</u> disclose "a routine, responsive to a status of the programmable medical device without user input, for generating a display of a plurality of entry keys," Applicants assert that the Examiner has failed to present a *prima facie* case of obviousness. As such, the rejection is not only invalid, but is also improper.

It is the burden of the Patent and Trademark Office to establish a *prima facie* case of obviousness when rejecting claims under 35 U.S.C. §103. <u>In re Reuter</u>, 210 USPQ2d 249 (CCPA 1981). To establish a *prima facie* case of obviousness, three basic criteria must be met: first, there must be some suggestion, incentive or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art references must teach or suggest all the claim limitations. <u>See In re Geiger</u>, 815 F.2d 686, 688 (Fed. Cir. 1988). Obviousness cannot be established by combining the teachings of a reference to produce the claimed invention, absent some teaching or suggestion supporting the combination of the references. <u>ACS v. Montefiore Hospital Systems, Inc.</u>, 221 USPQ 929 at 933 (Fed. Cir. 1984). Furthermore, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the Applicant's disclosure. <u>In re Vaeck</u>, 947 F.2d 488, 20 USPQ.2d 1438 (Fed. Cir. 1991).

Here, the disclosure of <u>Wallace</u> pertains solely to setting and displaying alarms in medical devices. In contrast, the disclosure of <u>Zingher</u> pertains solely to printing presses. These references each provide for solving vastly different problems and each have vastly different

applications. Accordingly, Applicants respectfully submit that since there is no teaching or

suggestion to combine the disclosures of <u>Wallace</u> and <u>Zingher</u>, the Examiner has failed to

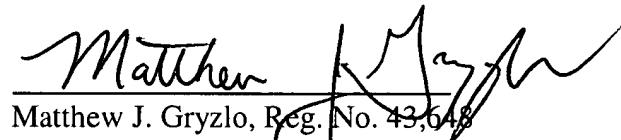present a *prima facie* case of obviousness.

II.   <u>Conclusion</u>

For the above reasons, Applicants respectfully request the Examiner to reconsider and

withdraw the rejection of the claims under §§ 102(e) and 103(a). In view of the amendments

made herein and the foregoing remarks, Applicants submit this application is in condition for

allowance. Such action is respectfully requested. The Examiner is requested to contact the

undersigned if the Examiner has any questions concerning this Reply.

                                           Respectfully submitted,

Date: June 12, 2003   By: _____
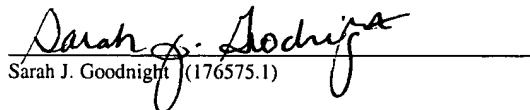   Matthew J. Gryzlo, Reg. No. 43,648
                                           Wallenstein & Wagner, Ltd.
                                           311 South Wacker Drive - 53rd Floor
                                           Chicago, Illinois 60606-6622
                                           312.554.3300
                                           Attorneys for Applicants

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Sarah J. Goodnight (176575.1)